



PUBLIC NOTICE

Federal Communications Commission
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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST
FOR WAIVER BY THE TOWN OF ASHLAND, MASSACHUSETTS POLICE DEPARTMENT
TO ADD TWO PART 22 FREQUENCIES TO ITS PUBLIC SAFETY RADIO SYSTEM**

File No. 0003304375

Comment Date: August 1, 2008

Reply Comment Date: August 11, 2008

The Public Safety and Homeland Security Bureau seeks comment on the above-captioned application and waiver request, as amended, filed on January 28, 2008, by the Town of Ashland, Massachusetts Police Department (Ashland).¹ Ashland seeks waiver relief pursuant to Section 337(c) of the Communications Act of 1934, as amended (the Act),² to use, for public safety communications purposes, two frequencies interleaved between channels allocated for Part 22 point-to-multipoint operation. Specifically, Ashland proposes to construct and operate a new wireless telecommunications system for its public safety radio operations utilizing frequencies 470.1000 and 473.1000 MHz. In the alternative to Section 337(c), Ashland requests waiver relief pursuant to Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925. Ashland requests waiver of Sections 20.9(a)(6) and 22.621³.

Ashland is located in the Boston urbanized area. Ashland seeks waiver of the Commission's rules to use non-public safety frequencies, 470.1000 MHz and 473.1000 MHz,⁴ to enable it "to operate a wireless telecommunications system to meet its public safety obligations to its citizenry."⁵ Ashland states that the Police Department "furnishes traditional police services to the residents of Ashland," including "mitigation of the loss of life and property... investigations of murders, fraud, traffic incidents and other general police activities."⁶

¹ See File No. 0003304375 (filed Jan. 28, 2008, amended Feb. 21, 2008, Feb. 29, 2008, and Apr. 10, 2008) and attached Request for Waiver of Eligibility Restrictions from Cindy Matzel, Frequency Coordinator, AASHTO, to Federal Communications Commission (dated Feb. 29, 2008; amended April 9, 2008) (filed Jan. 28, 2008, amended Apr. 10, 2008) (Waiver Request).

² 47 U.S.C. § 337(c).

³ 47 C.F.R. §§ 20.9(a)(6), 22.621.

⁴ Frequency 470.1000 MHz is interleaved between existing Part 22 point-to-multipoint frequencies 470.0875 and 470.1125 MHz. See 47 C.F.R. § 22.621. Frequency 473.1000 MHz is interleaved between existing Part 22 point-to-multipoint frequencies 473.0125 and 473.1125 MHz. *Id.*

⁵ Waiver Request at 1.

⁶ *Id.*

On behalf of Ashland, the American Association of State Highway and Transportation Officials (AASHTO) states that it conducted “detailed database searches in the VHF, UHF, T[-]Band and 800 MHz bands” and determined that “there are no available part 90 frequencies that can be assigned without impacting other licensees.”⁷ AASHTO asserts that “essentially every UHF Public Safety frequency pair is encumbered and cannot be used without compromising critical Public Safety operations,”⁸ thus necessitating Ashland’s request to use non-public safety channels. AASHTO claims that the subject frequency pair “has been in use as a non-paging frequency since July 24, 2003,” and thus satisfies the requirement that the frequencies have been “allocated for its requested use for at least two years.”⁹ Finally, AASHTO maintains that “grant of the requested waiver is the only reasonable course of action to facilitate the vital operations” of Ashland.¹⁰

As a part of the analysis under Section 337 of the Act, as well as the Commission’s waiver criteria, we also seek comment on whether the 700 MHz public safety band would provide a viable alternative, particularly in light of the approaching February 17, 2009 digital television transition date, and the Commission’s recent actions in facilitating a nationwide, interoperable public safety network.¹¹

Interested parties may file comments on the Waiver Request on or before August 1, 2008. Parties interested in submitting reply comments must do so on or before August 11, 2008. All comments and reply comments should reference the subject Waiver Request and the DA number indicated on this *Public Notice*. Filings may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express, and Priority mail must be sent to 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

⁷ *Id.*

⁸ *Id.* at 2.

⁹ *Id.* See File No. 0001304138 (July 24, 2003). The Town of Plymouth, Massachusetts Fire Department (Plymouth) is licensed to operate a public safety radio system on these frequencies under call sign WPYD799. As required by Section 90.313(c), Ashland’s sites are located more than 40 miles from Plymouth, and, therefore, will not cause any interference to Plymouth’s facilities licensed under WPYD799. See, 47 C.F.R. § 90.313(c).

¹⁰ Waiver Request at 2.

¹¹ See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229; Development of Operational, Technical and Spectrum Requirements for Meeting Federal State and Local Public Safety Communications Requirements through the Year 2010, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007).

The Waiver Request can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the Waiver Request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpweb.com>, by email at fcc@bcpweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Lisa Williams, RIC, (202) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not party to the Application, it is in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a) and 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a) and 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed, but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

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For further information, contact Mr. David Siehl of the Policy Division, Public Safety and Homeland Security Bureau at 202-418-1313 (voice), 202-418-7233 (tty), or via e-mail to David.Siehl@fcc.gov.

By the Deputy Chief, Public Safety and Homeland Security Bureau.

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